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C O N F I D E N T I A L DAMASCUS 005866

SIPDIS

PARIS FOR ZEYA, LONDON FOR TSOU, DRL FOR JEANETTE DAVIS

E.O. 12958: DECL: 11/07/2015

TAGS: [PGOV](#) [PHUM](#) [SY](#)

SUBJECT: MALEH SLANDER TRIAL DELAYED BY TECHNICALITIES

REF: DAMASCUS 005667

Classified By: CDA Stephen Seche for reasons 1.4(b)/(d)

1. (C) Prominent human rights activist and lawyer Haitham al-Maleh,s trial continued at the Syrian Military Court on November 7. Maleh told Poloff that the case stems from a letter he sent to President Bashar al-Asad in July 2005 in reference to a criminal case that was conducted in the Field Military Court in 2000. In his July letter to Bashar, Maleh called for the nullification of the Field Military Court Law, which was introduced in 1968 &at the beginning of a dictatorial regime.8 He also criticized the Field Military Court as being an unjust system, under which people had been killed. It is on the basis of this letter that the four charges of slander against Maleh were filed: three based on criminal law and one based on military law (reftel).

2. (C) During the brief hearing, Maleh presented a request that the lone military law-based charge be dropped and that the other three charges be continued in criminal court. Maleh argued to the judge that the Military Court has no jurisdiction in his case as he is not a member of the military, nor can civilians be court-martialed by the military court. When the judge argued that Syria is still in a state of war and therefore military law applies, Maleh countered that Syria has not really been in a state of war since the 1991 Madrid Peace Conference.

3. (C) No further action was taken on the case, as no representative from the Syrian Bar Association was present to represent Maleh. (Note: According to Maleh,s legal team, Syrian legal procedures require that when a Bar Member like Maleh appears as a defendant, a representative of the Bar Association must be part of the defense team). Ahmad Fayez Fawaz, the current president of Human Rights Association of Syria, noted to Poloff that it would be a scandal for the Ba,ath Party-affiliated Bar Association to defend such an outspoken critic of the regime and he speculated that the Bar was trying its best to avoid having to participate.

4. (C) Maleh is not being detained by SARG authorities. The next hearing date is set for December 1.

SECHE